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1 HEARING OFFICER MATOESIAN: Let the record show
2 that this is a public hearing before the Illinois
3 Environmental Protection Agency in the matter of the
4 proposed issuance of a Clean Air Act Permit Program permit
5 for the Midwest Generation Fisk Generation Station in
6 Chicago.

7 Good evening, ladies and gentlemen.
8 Welcome to this hearing. My name is Charles Matoesian,
9 and I will be the hearing officer for these proceedings.

10 At this time I would like to mention that
11 we do have a Spanish translator available. If you need
12 such assistance, please go to the registration desk.

13 I will introduce the other members of the
14 Illinois Environmental Protection Agency, or Illinois EPA,
15 staff at the conclusion of this statement. This hearing
16 is being held by the Illinois EPA's Bureau of Air Permit
17 Section for the purpose of providing an opportunity for
18 the public to understand and comment on the issuance of a
19 Clean Air Act Permit Program permit to Midwest Generation
20 for its electricity generation facility located at
21 1111 West Cermak Road in Chicago.

22 This hearing is being held under the
23 provisions of the Illinois EPA's "Procedures for Permits
24 and Closure Plan Hearings," 35 Illinois Administrative

1 Code, part 166. Copies of these procedures can be
2 obtained from me upon request.

3 After the presentation by the Illinois
4 EPA's Bureau of Air staff, who will describe the permit
5 and make a presentation, and a short presentation by
6 Midwest Generation, any person who wishes to make oral
7 comments or testify may do so as long as the statements
8 are relevant to the issues which are being addressed at
9 the hearing, and they have indicated that they wish to
10 comment on their registration card. If you would like to
11 make oral comments and need a Spanish translator, once
12 again, please talk to the Agency staff at the registration
13 desk.

14 Persons asking questions or making comments
15 will initially be limited to five minutes until everyone
16 who wishes to ask questions or make comments has had a
17 chance to speak. If you have lengthy comments to make,
18 please submit them in writing before the close of the
19 comment period.

20 Those persons asking questions or making
21 comments will, first, please state their name,
22 association, or organization that they represent for the
23 hearing record. If you are representing yourself only,
24 you can state that you are an interested citizen or area

1 resident.

2 Questions asked of speakers must, firstly,
3 be framed as a question, secondly, be relevant to the
4 subject presented, and third, not be repetitious. Arguing
5 or dialogue with any speaker will not be allowed.
6 Questions must be directed to myself, the hearing officer;
7 and I will then direct the speaker to respond as
8 necessary.

9 The Illinois EPA will listen to all
10 relevant comments, accept all relevant documents or data
11 as exhibits into the hearing record. Once the hearing is
12 adjourned today, I will hold the hearing record open until
13 September 28, 2003. During this time, all relevant
14 comments, documents or data will be accepted and entered
15 into the hearing record as exhibits.

16 Please send all written comments,
17 documents, or data to myself, Charles Matoesian, Hearing
18 Officer, Illinois Environmental Protection Agency, Bureau
19 of Air, Division of Air Pollution Control Permit Section,
20 1021 North Grand Avenue East, Post Office Box 19276,
21 Springfield, Illinois, 62794-9276. My phone number is
22 area code 217-782-5544.

23 Written comments need not be notarized as
24 to the facts asserted, but they must be postmarked on or

1 before midnight, September 28, 2003.

2 Anyone who fills out a registration card
3 will receive a copy of the Responsiveness Summary, that is
4 the Agency's response to public comments and final
5 decision when this document becomes available.

6 If you wish to make oral comments but have
7 a time constraint, please let the Agency staff at the
8 registration table know; and I will endeavor to call upon
9 you to testify at the earliest possible.

10 If you require any further information
11 after this hearing is over, please contact me at the
12 telephone number given above. Once again, area code
13 217-782-5544. Or you may call Brad Frost at 217-782-2113.
14 The telephone number for anyone who is hearing impaired,
15 which is the TTD number, is area code 217-782-9143, and
16 someone will be glad to assist you.

17 Because a verbatim record of this hearing
18 is being made, I would request that you keep conversation
19 and noise levels to a minimum so that the court reporter
20 can hear and can transcribe the proceedings. If you have
21 a foreign sounding name or hard to pronounce name, please
22 spell it for the court reporter. And please don't take
23 offense if the court reporter asks you to repeat something
24 that you have said. We are trying to get an accurate

1 record here, and her job is to make and produce a good
2 transcript which will accurately portray what you have
3 said.

4 On behalf of Director Renee Cipriano, the
5 Illinois EPA Bureau of Air staff, and myself, I wish to
6 thank you for your attending and your participation at
7 this hearing. As I said, my name is Charles Matoesian;
8 and I will be the hearing officer.

9 The Agency staff will now make their
10 presentations in the order of the handouts distributed at
11 the registration desk. First will be Mr. John Cashman.
12 He is the Bureau of Air Permit Section permit reviewer for
13 this application. Jim Ross is the acting manager of the
14 Bureau of Air Permit Section. Finally, Mr. Chris Romaine,
15 he is the Bureau of Air Permit Section Manager of the
16 Utilities Unit. Other Agency staff in attendance tonight
17 are Mr. Mark Gerberding, the Community Relations officer,
18 and Nilda Esparza to help with translation as needed.

19 At this time I'm going to ask Mr. Cashman
20 to make his presentation regarding the permit.

21 MR. CASHMAN: Good evening, ladies and
22 gentlemen. My name is John Cashman. I'm an engineer with
23 the Illinois Environmental Protection Agency. My duties
24 include reviewing air pollution permit applications for

1 various types of stationary emission sources.

2 I would like to thank everybody for coming
3 here to express your interest in the Draft Clean Air Act
4 Permit that the Illinois EPA has prepared for Midwest
5 Generation's Fisk Generation Station. The Fisk Generation
6 Station is an existing electric power plant. The
7 principal emission unit is a coal-fired boiler. The
8 emissions of the boiler are controlled by a combination of
9 operating practices, boiler features, and add-on control
10 equipment. Midwest Generation complies with requirements
11 for sulfur dioxide by burning low sulfur coal. Nitrogen
12 oxide emissions are minimized by the burner system in the
13 boilers. Particulate matter emissions are controlled by
14 add-on electrostatic precipitators, which use electrical
15 attraction to remove dust from the exhaust.

16 The Fisk Generation Station is required to
17 obtain a Clean Air Act Permit because it is a major source
18 of emissions. The Clean Air Act Permit specifies
19 applicable state and federal regulations that apply to the
20 plant including emission limitations, monitoring
21 requirements, and recordkeeping requirements. This
22 includes requirement for the new regional trading program
23 that becomes effective in 2004.

24 One of the key requirements applying to

1 this plant is that Midwest Generation Station must operate
2 and maintain continuous emission monitors to measure the
3 nitrogen oxide and sulfur dioxide emissions of the coal-
4 fired boiler and the opacity from the stack. Midwest
5 Generation must operate these systems in accordance with
6 the protocols under the federal Acid Rain Program. These
7 monitors provide very reliable information to verify
8 compliance with the control requirements for emissions.

9 MR. ROSS: Thank you, John.

10 Good evening everyone. As mentioned, my
11 name is Jim Ross. I am the acting manager of the Bureau
12 of Air Permit Section. I have been with the Illinois EPA
13 for over 15 years, all of that time in the field of air
14 pollution control.

15 We are here tonight to listen to your
16 comments and concerns on the draft permit and to,
17 hopefully, provide answers on any questions that you may
18 have regarding the permit. Since this hearing is focused
19 on the permit, we feel it's important that you understand
20 the purpose of the permit and the permit program from
21 which it originates. Therefore, I will start by giving
22 you a brief history of the Title V permit program and then
23 provide you with some information on the permit itself.

24 So, first, some background information on

1 the permit program. The 1990 Clean Air Act Amendments
2 created a federal operating permit program known
3 nationally as the Title V permit program. This permit
4 program, known in Illinois as the Clean Air Act Permit
5 Program -- acronym is C-A-A-P-P, pronounced cap -- focuses
6 on the industrial sources of air pollution of greatest
7 concern, that is, the major sources. The term CAAPP and
8 Title V are synonymous in Illinois. We often use both
9 terms when referring to the same program. For example, we
10 refer to the permits that are issued under this program as
11 either Title V permits or CAAPP permits.

12 The CAAPP requires that a single,
13 all-encompassing operating permit be issued to each major
14 source. This single permit covers all emission units and
15 activities at the source. Before the CAAPP, a source
16 could have several individual operating permits, up to 100
17 separate permits in some cases for the larger sources.
18 This often caused confusion and permit conflicts. So the
19 single permit for a single source concept implemented with
20 the CAAPP was a dramatic change from business as usual in
21 Illinois. It is widely accepted that this single, all-
22 inclusive permit strategy simplified the compliance
23 process in that there is now only one single document or
24 permit to review as opposed to many. As an inherent

1 result of all requirements now being put into one single
2 permit, these CAAPP permits are very detailed in scope and
3 range in size from 50 to 1,000 pages in length. The
4 typical size of an operating permit before the CAAPP was
5 only one to five pages. This is an actual copy of the
6 Fisk permit, two-sided.

7 Now, it's important that you listen to what
8 I'm going to say. This is specific information on this
9 particular permit. Getting sources permitted and operated
10 under a CAAPP permit provides many benefits to the
11 environment, which, of course, is one of our most
12 important overall goals. We feel it is extremely
13 important that the public understand that these permits
14 are meant to provide environmental benefits. They are not
15 meant to allow or permit additional air pollution. These
16 permits seek to assist all persons in providing clarity
17 and awareness on applicable regulations and the mechanisms
18 by which a source must comply with these regulations.
19 These permits add to, not subtract from, the compliance
20 checks and balances put on a source, thereby providing an
21 additional layer of protection of our air quality. As I
22 will hopefully clarify further, the public has reason to
23 wholeheartedly endorse the issuance of these permits,
24 especially for sources with which they have concerns about

1 air emissions and the associated impacts on their health
2 and well-being. The environment is being better protected
3 if major sources are made to operate under these permits.
4 I will say this again because it is the crux of the matter
5 of why we are here tonight, and that is that the
6 environment is better protected if this source and all
7 major sources are issued and made to operate in accordance
8 with a CAAPP permit. The issuance of this permit is good
9 for the environment.

10 Now, I said all that, so I feel it's
11 necessary for me to explain some of the major benefits of
12 the permit. So please pay attention as these are the
13 reasons why these permits are good for the air and so
14 needed.

15 First, all requirements of this source are
16 consolidated into this single, enforceable permit as
17 opposed to being found piecemeal throughout several
18 permits.

19 Second, inspectors use these detailed
20 permits as a guide to improve their efficiency and
21 thoroughness as they visit sources and evaluate
22 compliance.

23 Third, all conditions in the permit, with
24 the exception of those for fees, are federally

1 enforceable, state enforceable, and enforceable by the
2 public. Currently the public is not directly able to
3 enforce permit requirements. Only after the issuance of a
4 CAAPP permit can this be done.

5 These permits and this permit fill any gaps
6 in emissions monitoring, testing, and recordkeeping that
7 were discovered during the review of the application,
8 thereby adding additional mechanisms for compliance
9 assurance.

10 This permit requires more, more, reporting
11 on compliance issues than what is currently required. The
12 additional reporting requirements that come with the
13 permit are typically a point of interest, so I will
14 briefly elaborate on them.

15 There are four big requirements, reporting
16 requirements, for sources. First, there is the reporting
17 of deviations, also known as the reporting of possible
18 violations, deviations from terms and conditions of the
19 permit.

20 The second major reporting requirement is
21 semi-annual monitoring reports.

22 The third is the annual compliance
23 certification, and this is a very important tool for
24 assurance of source compliance. These reports require a

1 source to do a source-wide compliance check or source-wide
2 inventory of compliance and submit a report on the
3 findings to environmental agencies.

4 And finally, the fourth major reporting
5 requirement is the annual emissions report. Both the
6 semi-annual reporting and the annual compliance
7 certification only become required after the issuance of
8 this permit. Simply put, if this permit is not issued,
9 these reports are not required. This would prevent us
10 from utilizing these important compliance tools to ensure
11 environmental protection.

12 I want to quickly share with you what the
13 USEPA says about CAAPP permits. And I quote, The purpose
14 of Title V permits is to reduce violations of air
15 pollution laws and improve enforcement of those laws,
16 unquote.

17 Now, I spent the majority of my time going
18 over what the permit does; but equally important is what
19 the permit does not do. This permit does not allow any
20 increase in emissions above those previously and currently
21 allowed, and this permit does not allow the construction
22 of any new equipment or the modification of any existing
23 equipment.

24 Now some comments on tonight's hearing. We

1 are here to provide you with information and, perhaps most
2 importantly, to listen to your comments and concerns.
3 Your comments can and often do affect the content of the
4 permit or even the final action that is to be taken on the
5 application, so please make your concerns known to us. It
6 is also important that you make known your concerns in
7 order to retain your rights should you wish to object to
8 the permit. In explanation of this, the issues you may
9 raise in a petition to object to the permit may be limited
10 to those issues that you have previously raised.
11 Therefore, it is important that you identify and raise any
12 concerns that you may have here tonight or, alternatively,
13 that you let us know in writing prior to the close of the
14 hearing record.

15 And finally, I want to give you some
16 information on what comes next after tonight's hearing.
17 The hearing record typically closes roughly 30 days from a
18 hearing. However, the hearing record for this permit has
19 been extended such that it will close on Sunday,
20 September 28, 2003.

21 After that time, we will generate a
22 proposed permit and send this to the USEPA for their
23 standard 45-day review period. This proposed permit will
24 also show up on our web site when we send it to the USEPA,

1 so you will have access to it.

2 The public then has 45 days from the close
3 of the USEPA 45-day review period in which to petition the
4 USEPA to object to the permit.

5 After the USEPA review period expires, we
6 will take final action on the permit. Roughly around the
7 time we take final action on the permit, we will mail out
8 the Hearing Responsiveness Summary. This document will
9 also appear on our web site; therefore, you will have
10 access to it also.

11 That concludes my opening remarks. Thank
12 you for listening.

13 And I now would like to turn it over to our
14 next speaker, Chris Romaine.

15 MR. ROMAINE: Good evening. Thank you again for
16 coming to tonight's hearing.

17 As Mr. Ross explained, issuance of the
18 Clean Air Act Permit for this power plant is a good thing.
19 This permit will help assure that this source fully
20 complies with the existing limits and other regulatory
21 requirements that restrict its emissions. The permit will
22 do this by summarizing emission control requirements in a
23 single, comprehensive permit by clarifying the provisions
24 of certain rules and filling in certain gaps in compliance

1 procedures and existing rules. We are certainly
2 interested in any suggestions that would improve the
3 permit in this regard. However, it should be understood
4 that coal-fired power plants like this source are already
5 some of the most closely monitored sources in the state
6 with continuous emission monitors already in place for
7 sulfur dioxide, nitrogen oxide, and opacity.

8 At the same time the proposed permit for
9 this power plant is not a means to generally set new
10 requirements to control emissions from this source. We do
11 not have broad legal authority in Clean Air Act permits to
12 establish new requirements to further control emissions
13 from existing sources. Instead, the development of
14 control requirements for existing sources like this power
15 plant generally occurs with the adoption of new rules and
16 laws. This ensures that all sources in a particular
17 category are considered and treated fairly and that
18 overall environmental goals are efficiently achieved. For
19 coal-fired power plants, this big picture approach is very
20 important. This is because an individual power plant
21 generally has a small effect on the air quality in the
22 immediate surroundings where it's located given the
23 emission control requirements that currently apply to
24 coal-fired power plants. However, the effect of a single

1 power plant extends over a large area so that power plants
2 as a group do significantly contribute to background
3 levels of pollution throughout the state. In other words,
4 to effectively reduce the impacts of coal-fired power
5 plants on air quality, many power plants must be further
6 controlled, ideally, on a regional or national basis.
7 This is what has occurred in the past and should continue
8 to occur to coal-fired power plants in Illinois separate
9 from the Clean Air Act permit proposed for this particular
10 power plant.

11 In particular, in 1995, the national Acid
12 Rain Program began requiring reductions in annual
13 emissions of sulfur dioxide, nitrogen oxide emissions from
14 coal-fired power plants. In May of this year, a
15 state-based rule became effective in Illinois which
16 requires electrical generating units to reduce nitrogen
17 oxide emissions, and it's projected that this will reduce
18 nitrogen oxide emissions during summer months by an
19 additional 56 percent. Next year, in 2004, the Regional
20 Trading Program will begin requiring further reductions in
21 nitrogen oxide emissions at power plants during summer
22 months from over 20 eastern states including Illinois.
23 These regulatory programs have and will substantially
24 reduce the emissions of two key pollutants emitted from

1 coal-fired power plants.

2 Additional reductions beyond these adopted
3 programs are also planned. At the national level,
4 President Bush with support in the United States EPA is
5 recommending that Congress adopt a law called "Clear
6 Skies" to further control emissions of sulfur dioxide and
7 nitrogen oxide from coal-fired power plants and also begin
8 to control emissions of mercury on a national basis.

9 The future levels of power plant emissions under the Clear
10 Skies program and the form and schedule for the reductions
11 in emissions are subjects that are currently being debated
12 at the national level. At the state level, the Illinois
13 legislature has already adopted a law requiring the
14 Illinois EPA to evaluate further emission control for
15 power plants in Illinois. The Illinois EPA must submit
16 its report back to the legislature by September 30, 2004,
17 and may then proceed to propose rules for further control
18 of emissions consistent with its findings. As with the
19 national proposal for the Clear Skies program, the
20 Illinois EPA expects its report and subsequent rulemaking
21 to be the subject of much public debate. In any event,
22 when the next new program is adopted to control emissions
23 from existing power plants, the Clean Air Act permit will
24 again be one of the tools that is used to assure that this

1 source complies with the newly adopted requirements.

2 As a final point, please recognize that
3 coal-fired power plants are not the only source of
4 emissions. In particular, cars, trucks, and buses
5 represent the largest source of nitrogen oxides and
6 volatile organic compounds; and manufacturing plants also
7 significantly contribute to air quality. Regulatory
8 programs are in place and continue to be developed to
9 reduce the emissions from sources other than power plants.
10 These emission reductions also contribute to the steady
11 year-by-year improvement to air quality in Illinois,
12 especially in urban areas like Chicago. Thank you again.

13 HEARING OFFICER MATOESIAN: Thank you,
14 gentlemen.

15 Now, before we go on, I would just like to
16 introduce a copy of the Clean Air Act Permit Program
17 permit into the record as Exhibit 1.

18 (Document marked as Exhibit No. 1.)

19 HEARIG OFFICER MATOESIAN: Also, there are
20 several officials from Midwest Generation here who would
21 just like to introduce themselves and make a statement
22 right now.

23 MR. MC FARLAN: Thank you. My name is Doug
24 McFarlan. I am Vice President of Public Affairs for

1 Midwest Generation. We appreciate the opportunity to be
2 with you and the residents of the community and all the
3 other people who are here this evening. We appreciate the
4 description that the folks from the EPA here have given to
5 the hearing and the whole Title V permit process because I
6 think that did a very good job of clarifying how heavily
7 regulated our operations are and the intention of this
8 process to make it simpler and easier for the public to
9 participate in reviewing our operations and ask questions
10 about them. So we certainly wholeheartedly welcome and
11 support that and pledge our cooperation with the Agency
12 and community in this important program.

13 We have a few representatives of the
14 company that are with me tonight. I would like to point
15 out two of them specifically now. One is Mr. Mike
16 Hanrahan. Mike is our Plant Manager in the Fisk Station
17 so he works in this community in a leadership role with
18 our company on a daily basis, of course. And then also
19 Fred McCluskey is our Vice President and Chief Technical
20 Officer. And what we would like to do later this evening
21 is, after the public has had a chance to comment, have
22 Mr. McCluskey give you some summary comments on behalf of
23 Midwest Generation on our operations. And if there is
24 some questions that come up that we can address, we will

1 try to do that.

2 Throughout the course of the evening, we
3 have several other representative companies here of a
4 technical nature. And if there are issues that the Agency
5 would like us to try and help clarify, we are happy to try
6 and do that. Recognizing that we may not have answers on,
7 you know, available to us tonight and to any questions
8 that would come up, we would ask, therefore, an
9 opportunity in some cases to be able to get back to you or
10 get back to someone on a question if it's something not
11 easily addressed tonight.

12 Again, we welcome participating in this
13 very public process. We note the intention is to
14 encourage and support public dialogue and public
15 participation in reviewing our operations, and we are here
16 in the spirit of cooperation and look forward to hearing
17 the comments tonight and having a chance to respond to
18 them. Thank you.

19 HEARING OFFICER MATOESIAN: Thank you,
20 Mr. McFarlan.

21 And now we'll proceed to the public
22 comments. Once again, I please ask that you state and
23 spell your name clearly for the record and approach the
24 microphone when you speak. I have Faith Bugel.

1 MS. BUGEL: Good evening. My name is Faith
2 Bugel. I'm here representing Environmental Law & Policy
3 Center. I would like to start off by saying that we
4 appreciate the effort that Illinois EPA has put into
5 drafting this permit. We acknowledge that it is a time-
6 consuming and lengthy process and that there has been a
7 lengthy permit produced. We do have several concerns with
8 that permit.

9 Just to summarize what those concerns are,
10 we believe that there are numerous conditions in the
11 permit that fail to comply with state and federal
12 requirements; that the permit allows emissions during
13 start-up and malfunction in contravention with USEPA
14 policy. There are numerous conditions in the permit that
15 are not practically enforceable, a requirement again from
16 the USEPA; that the permit allows the facility to continue
17 to operate in a manner which causes severe health impacts
18 on the surrounding communities; and that the permit also
19 contains numerous typographical errors, minor mistakes,
20 omissions of a more minor nature.

21 Specifically, some of the problems that I
22 would like to draw the attention of the EPA to are the
23 provisions in the permit that fail to comply with
24 pertinent provisions of the Illinois Administrative Code,

1 the Act, the Code of Federal Regulations, and the Clean
2 Air Act itself. Specifically, some of these provisions
3 fail to provide monitoring sufficient to meet the
4 requirements of the Code of Federal Regulations and to
5 meet the credible evidence rule.

6 For instance -- And I will not go into the
7 about dozen or so conditions I have identified in this
8 regard. But for instance, condition 9.10.2 as written is
9 inconsistent with 45 ILCS 5/39.57(k). The specific
10 language in this condition says, "Normally an act of God
11 such as lightning or flood is considered an emergency," a
12 one-line definition of an emergency. That provision of
13 the code that I just cited of the statute that I just
14 cited is actually about a 12-line definition of emergency.
15 The definition in the statute is much longer, much more
16 detailed, much more clear, and that definition needs to be
17 included within the permit.

18 Secondly, in regards to monitoring. 40 CFR
19 Section 70.6 has lengthy requirements as far as
20 monitoring. And specifically condition 7.5 and 7.6 in
21 relation to the auxillary boiler in the peakers do not
22 meet those requirements as far as monitoring.

23 As far as the credible evidence rule goes,
24 the credible evidence rule is straight from the U.S. Code

1 itself, it says that the USEPA, it gives the EPA authority
2 to bring enforcement actions on the basis of any
3 information available to the administrator. This is
4 interpreted to mean any credible evidence. Any credible
5 evidence can be used to show a violation or, conversely,
6 demonstrate compliance. The permit language may not
7 exclude the use of any data to provide credible evidence.

8 The permit must specify the source's
9 obligations for monitoring in a way that does not
10 establish an exclusive link between any test method or
11 emissions limit. The permit language may not specify that
12 other certain types of data may be used to determine
13 compliance. Every condition, every condition, .12, they
14 are in every -- related to every unit gives a list of
15 compliance procedures. These are all violations of the
16 credible evidence rule.

17 In regards to startup, malfunction, and
18 breakdown, the permit needs to include more stringent
19 requirements regarding emissions excesses or violations
20 that take place during startup, malfunction, and
21 breakdown. It is USEPA policy that excess emissions
22 during those times are still considered violations. The
23 permit may not excuse these violations. The permit itself
24 uses the language authorized.

1 Again, this language is unclear. We are
2 not sure if this is excusing the violation or authorizing
3 something else. The discretion that the EPA has in this
4 regard is just to allow an affirmative defense. However,
5 USEPA policy is clear on about a dozen or so requirements
6 that must be made by a facility that must be met in order
7 to have that affirmative defense. These requirements are
8 not included in the permit.

9 As far as practical enforceability goes, a
10 permit is enforceable as a practical matter if it
11 establishes a clear legal obligation for the source and
12 allows compliance to be verified. Providing the source
13 with clear information goes beyond identifying the
14 applicable requirement. The permit conditions must also
15 be unambiguous and may not contain language which may
16 intentionally or unintentionally prevent enforcement. For
17 the permit to be enforceable, it must leave no doubt as to
18 exactly what a facility must do to comply with the
19 conditions in it.

20 This permit also contains numerous
21 conditions that are not practically enforceable. It
22 references a number of undefined procedures, documents,
23 etcetera. It uses things such as references "other
24 written instructions." It references "other operating

1 conditions." It references "written monitoring
2 procedures," "established startup procedures," and other
3 language where there is never any further definition or
4 clarification as to what these "other instructions,"
5 "other procedures," are. That is not practically
6 enforceable.

7 The permit is also not practically
8 enforceable in regards to using imprecise time frames.
9 USEPA policy again is clear that when a time frame is
10 included in the permit it must have a specifically
11 identified ending point, hours, minutes, days, whatever
12 you like. However, using things, language, such as "as
13 soon as possible," "from time to time," "timely," and
14 keeping it at that without an established ending time
15 limit is not practically enforceable. It's subjective.
16 It's vague.

17 One of my biggest concerns is in regards to
18 the use of the term reasonable. Reasonable is subjective
19 and vague. IEPA, the permittee, citizens enforcing this
20 permit, will all have a different idea as to reasonable.
21 The term reasonable is not practically enforceable.

22 Numerous conditions, all the conditions that end
23 in .3 provide that the permittee shall comply with all
24 reasonable directives of the Illinois EPA. Flat out that

1 should just be "all directives of the EPA." I assume that
2 you guys don't make directives that are not reasonable
3 sometimes.

4 The permit also states that the permittee
5 shall implement and maintain control measures for the
6 affected operations that provide a reasonable assurance of
7 the compliance. I assume that this should be "an
8 assurance of compliance" and not just "reasonable," that
9 we are expecting the permittee to provide -- to comply,
10 just flat out comply.

11 In addition, Agency discretion is not
12 practically enforceable. Citizens need to be able to
13 enforce this permit as well. And they cannot be subjected
14 to waiting for a decision of the Agency. Citizens are not
15 able to contradict a decision of the Agency. Therefore,
16 allowing Agency discretion in a permit renders the permit
17 unable to be enforced by citizens. There are a number of
18 conditions that allow Agency discretion and, therefore,
19 are not practically enforceable.

20 Finally, I would like to discuss health
21 effects. The permit has problems because this is a
22 facility that's operated in a manner that has caused
23 severe health impacts on the surrounding community. Fisk
24 is located in the residential neighborhood of Pilsen. It

1 was originally built in 1902. It's over 100 years old.
2 Its one coal-fired boiler was installed in 1959, over 40
3 years old. According to Midwest Generation, New Source
4 Review rules do not apply to that boiler because it was
5 grandfathered and they claim it has never been modified.

6 Fisk emits twice as much sulfur dioxide as
7 a newer plant and 50 times more pollution than a modern
8 electric power plant. In the year 2000, it was estimated
9 that pollution to Fisk was responsible for 22 deaths,
10 170 emergency room visits, 900 asthma attacks, 30,500
11 cases of upper respiratory symptoms. Approximately two
12 thirds of all of these health effects could be avoided
13 with modern emission controls on this plant.

14 The distance at which these health impacts
15 are greatest is within one mile of the facility, this
16 neighborhood that we are in here tonight. In addition,
17 62 percent of these health impacts occur within
18 50 kilometers of this plant in the City of Chicago.
19 Chicago ranks fourth among major metropolitan areas in
20 terms of volume and number of health impacts from
21 coal-fired power plants.

22 Fisk's Title V permitting process provides
23 an opportunity for IEPA to take action to set more
24 stringent limits on this plant and reduce the severely

1 negative health impacts that the plants have both on the
2 residents of Pilsen and of Chicago. Thank you for your
3 time today.

4 (A round of applause.)

5 HEARING OFFICER MATOESIAN: Thank you, ma'am.

6 The next speaker I have listed is Keith
7 Harley.

8 MR. HARLEY: Good evening. My name is Keith
9 Harley. I'm an attorney at the Chicago Legal Clinic. I'm
10 here tonight representing the American Lung Association of
11 Metropolitan Chicago. There may be other members of the
12 American Lung Association that will be testifying here
13 tonight, and I will be submitting detailed written
14 comments; but tonight I wanted to address three issues
15 regarding the proposed Title V identified for the source.

16 The first issue has to do with
17 environmental justice. The Illinois Environmental
18 Protection Agency is in the process of evaluating Title V
19 permits for all coal plants in this state, approximately
20 30 facilities. But Fisk is unique. Fisk is one of the
21 very few coal plants that is operating in a community that
22 has a substantially higher percentage minority population
23 than the state generally. Fisk is also one of the very
24 few plants operating in an area with a very high

1 population density suggesting many more people are
2 affected by its operations than other plants located in
3 less densely populated areas.

4 There is also evidence that the population
5 that lives around the Fisk facility is particularly
6 susceptible to its emissions. The Chicago Department of
7 Public Health has compiled health data for 77 separate
8 community areas in Chicago. Of these 77 community areas,
9 the area, community area, surrounding Fisk, has the
10 highest percentage of death by heart disease and the sixth
11 highest rate of death by pulmonary disease. It also has
12 the seventh highest rate of low birth rate.

13 Because it receives federal funds, Illinois
14 must ensure that members of this community receive equal
15 environmental protection under Title VI of the Civil
16 Rights Act of 1964. Today I sent a letter to Illinois
17 Environmental Protection Agency Director Renee Cipriano on
18 behalf of the American Lung Association of Metropolitan
19 Chicago requesting that Illinois EPA conduct an
20 environmental justice analysis as part of this permit to
21 identify the population affected by this facility, how
22 they are affected by this facility's emissions, and how
23 IEPA can exercise its discretion to ensure this permitting
24 process fully protects the health and safety of the people

1 who must live with this facility. Simply, whenever IEPA
2 has a judgment call, the Lung Association is requesting
3 IEPA to exercise its judgment in favor of the people who
4 live in this community.

5 Mr. Hearing Officer, at this time I would
6 request that a copy of this letter be entered as an
7 exhibit in this proceeding. May I approach?

8 HEARING OFFICER MATOESIAN: Yes. Thank you. I
9 will enter this as Exhibit 2 for the record.

10 (Document marked as Exhibit No. 2.)

11 MR. HARLEY: The second issue I wish to address
12 tonight has to do with the issue of compliance. The law
13 requires that in order to obtain a Title V permit the
14 applicant in this case, Midwest Generation, must either
15 certify its in compliance with performance standards that
16 originated in the Clean Air Act or enter into a scheduled
17 compliance to meet these standards.

18 As part of these proceedings, the Lung
19 Association wants the Illinois EPA to disclose to the
20 public all information in its files about any excess
21 emissions from this facility since Midwest Generation took
22 over in 1999. To this end today, I send a Freedom of
23 Information Act to the Illinois EPA asking for all
24 information in its possession about excess emissions from

1 the Fisk facility. I would request that a copy of the
2 response to the FOIA request not only be sent to me but
3 also be replaced in the repositories of information so
4 that any member of the public can review excess emission
5 information in the possession of the IEPA.

6 Mr. Hearing Officer, at this time I would
7 submit a copy of this letter as an exhibit. May I
8 approach.

9 HEARING OFFICER MATOESIAN: Yes, you may.

10 I will enter the as Exhibit 3 for the
11 record.

12 (Document marked as Exhibit No. 3.)

13 MR. HARLEY: The third issue I wish to address
14 is this, it is the belief of the American Lung Association
15 of Metropolitan Chicago that this facility cannot
16 establish compliance without first obtaining a permit as a
17 new source and, in turn, to meet state-of-the-art emission
18 standards a new coal-burning plant would have to meet.

19 The American Lung Association of
20 Metropolitan Chicago believes Fisk should not be
21 considered in compliance until it obtains a new source
22 permit. Even though Fisk is a very old plant, it should
23 be required to obtain the permit as a new source because
24 of a major modification which took place at the facility

1 in 1995. Under the law, if a facility undergoes a major
2 modification and increases its emissions as a result, it
3 needs to apply for a permit as if it were a new source
4 and be subject to installing state-of-the-art pollution
5 controls.

6 In 1995, the Fisk Generation Station shut
7 down. Actually, the shutdown period started in
8 November 1994 and it lasted until July 1995. During that
9 period of time, the facility replaced a 300-megawatt steam
10 chest. The details about the steam chest replacement will
11 be put into written comments on behalf of the Lung
12 Association.

13 Upon completion of the shutdown and the
14 replacement of the steam chest, a major component part of
15 the facility, the Fisk Generating Station certified that
16 it was in compliance and began operating again. But a
17 review of all documents obtained through the Freedom of
18 Information Act request exchanged between operators of the
19 Fisk plant and state and federal regulators does not
20 reveal that the operators of the Fisk plant ever disclosed
21 that the steam chest had been in place.

22 Following the replacement of the steam
23 chest, this generating station had a significant increase
24 in net emissions. Over the two year period prior to the

1 steam chest replacement in 1993 and 1994, Fisk had an
2 average net emission of 3,465 tons per year of sulfur
3 dioxide. In the two year period after the replacement of
4 the steam chest, Fisk's average net emissions increased to
5 4,201 tons per year of SO₂, an increase of 736 tons per
6 year, a significant increase in net emissions.

7 As I will detail in written comments, there
8 was a similar significant net increase in emissions of
9 oxides of nitrogen from the facility as well. Other
10 information obtained on behalf of the American Lung
11 Association of Metropolitan Chicago indicates that there
12 was a significant investment in the plant over a ten-year
13 period dating from 1985 to 1995, capital investment in the
14 facility averaged from 1 to \$4 million a year. At the
15 time of this steam chest replacement Fisk reported annual
16 investments in the amount of over \$61 million.

17 In light of this major modification and
18 significant increase in emissions, Fisk did undergo a
19 major modification that should trigger New Source Review.
20 In light of this major modification, until it obtains a
21 permit as a new source, the Fisk facility is not in
22 compliance with the requirements of the Clean Air Act and,
23 consequently, should not be issued a Title V permit by the
24 Illinois Environmental Protection Agency.

1 This isn't just an issue that a lawyer
2 would love. If it were subject to New Source Review, the
3 Fisk facility would be required to obtain a permit based
4 on best available control technology. According to the
5 Harvard School of Public Health, if the Fisk facility were
6 to employ best available control technology, the result
7 could be measured in human lives, 12 fewer premature
8 deaths.

9 On behalf of the Lung Association, thank
10 you for your attention to these comments.

11 (A round of applause.)

12 HEARIG OFFICER MATOESIAN: Thank you.

13 If possible, could you give a copy of those
14 for the court reporter so that she can make sure she gets
15 an accurate copy of your comments.

16 The next person I have is Mr. Gerald Mead.

17 MR. MEAD: Hi. My name is the Gerald Mead. I'm
18 a member of the Pilsen southwest side local Green Party.
19 I've been a resident of Pilsen for three years. Members
20 of my family have been her for as long as 30 years. And
21 the reason I'm here today, I'm not an expert like these we
22 have heard from that can tell you a lot of details about
23 the permit or certain acts in the permit, what I'm here to
24 speak about today, my concern, is about the pollution that

1 this plant produces, the health effects it has on my
2 family and in my neighborhood.

3 As you have heard quoted a number of times,
4 you have heard the Harvard study quoted a number of times.
5 This Fisk plant along with the Crawford plant in Little
6 Village results in over 40 premature deaths per year,
7 almost 3,000 asthma attacks per year or -- emergency room
8 visits a year, and over 500 serious asthma attacks per
9 year. This is a serious problems in our neighborhood. We
10 are one of the asthma capitals in the country from my
11 understanding.

12 We have a number of people that will talk
13 tonight, mothers that have children with asthma, people
14 that work in a local medical center here that deal with
15 people that have asthma. And we are very, very concerned
16 at the level that Fisk plant contributes to this problem.

17 There are other problems as well. We know
18 that the Fisk plant and Crawford plant are a serious
19 source of mercury pollution, of carbon dioxide pollution,
20 of nitrogen oxide, sulfur dioxide, and particulate matter.
21 They are one of the biggest polluters in our community;
22 and we are very, very concerned about this.

23 We know that the reason that this is
24 allowed to happen is, unfortunately, they escaped through

1 a loophole in the federal law which when the Clean Air Act
2 was passed allowed these old plants to be grandfathered in
3 and not have to meet the requirements that new plants do.
4 And that's why I, along with a number of -- or the Green
5 Party along with a number of other organizations have been
6 fighting for an ordinance here in Chicago that would
7 require Fisk and Crawford to meet higher standards. And
8 we continue to fight and think we are getting close. But
9 in the midst of that process here, we have got the Title V
10 permit and are certain it will issue. We realize the
11 issuance of the Title V permit will basically give a stamp
12 of approval to the pollution and the problems that Fisk is
13 causing in our neighborhoods.

14 I have heard repeatedly by you today that
15 this Title V permit would basically allow you to monitor
16 better, that Fisk is meeting the existing requirements,
17 and the existing standards. The problem is the existing
18 standards.

19 Now, on top of that, you have heard from
20 the American Lung Association tonight that we have also
21 found, as you looked over the records, that there is a
22 very -- It's very likely that the Fisk plant violated New
23 Source Review from making major modifications of the plant
24 and not reporting them. Now we have a plant that's not

1 only causing deaths in our neighborhood, causing health
2 problems in our neighborhood because the existing laws are
3 far too lenient, but now they are violating the law and
4 getting away with what they shouldn't be getting away with
5 because they are not reporting it. So I don't see how
6 this plant is given a Title V permit basically ruining our
7 neighborhood and causing more problems.

8 Now, I realize I can't tell you all too
9 many details about, you know, what aspects of the permit
10 need to be changed. There are others here are that are
11 more expert about that. But what I can tell you is I have
12 been in the community for a number of years, I know them
13 well. I have gone door-to-door to talk to people about
14 this problem, and there is a deep concern about the health
15 effects of these plants. And I hope you will take that
16 into consideration when you decide whether or not to issue
17 this permit.

18 (A round of applause.)

19 HEARING OFFICER MATOESIAN: The next speaker is
20 Verena Owen.

21 MS. OWEN: Good evening. My name is Verena
22 Owen. I'm from Lake County Conservation Alliance. First
23 of all, thank you for holding this hearing tonight. As
24 you know, I feel passionately about Title V and involving

1 the public leads to better permits.

2 I read the project summary, and I also
3 listened to your introductory speeches. And while they
4 were kind of nice, I think one of the things that I'm
5 missing in the summary, which is probably the first part
6 of the summary the public reads when they get involved, is
7 any kind of indication of how the Fisk plant performs
8 today. Are they in compliance or are they not?

9 The other question I have, look at your
10 introduction, under emission unit, it says, Other fuel
11 material such as used oil-generated source, refuse-
12 derived fuel, nonchlorinated plastics, boiler cleaning
13 waste, and grease may also be fired along with coal in
14 this boiler.

15 My question is if they propose to use
16 something else than coal, especially garbage and plastics,
17 would that not make it a pollution control facility and
18 would that not require siting? Would you answer this now,
19 or should I wait for the Responsiveness Summary?

20 MR. ROMAIN: I'm not sure whether this facility
21 has burned a refused-derived fuel in this past or not. If
22 it does -- I'm not sure if this facility has burned a
23 refuse-derived fuel in the past or not. If it doesn't
24 have that capacity, you are correct that that would change

1 the Fisk facility to allow it to burn refuse-derived fuel
2 would make it a pollution control facility.

3 MS. OWEN: Mr. Romaine, if you don't know, who
4 does? I think this is an important point, that you know
5 what the facility is burning.

6 MR. ROMAINE: I know that it doesn't burn any at
7 present. I don't recall which of Midwest Generation's
8 facilities was involved in the pilot program, I think in
9 the 1980's, involving burning of refuse-derived fuel.

10 MS. OWEN: Which brings me to my next question.
11 This is a Title V permit. Is this also a change to the
12 underlying Title I permit; and if yes, what changes were
13 made to the Title I permit and how do I find them?

14 MR. CASHMAN: As far as I'm aware, there is no
15 change in the Title I in the original permit that was
16 issued to Midwest Generation.

17 MS. OWEN: And my last comment is, you are going
18 to get a lot of data, do you have enough personnel to
19 review all those reports. Second question, how does the
20 community gain access? And the community that's,
21 obviously, interested here, there is a lot of people here
22 tonight, how will the community gain access to the
23 emission data should they be interested to find out how
24 Midwest Generation performs?

1 MR. ROSS: As far as reviewing the data
2 received, we do have a section dedicated to the review of
3 reports submitted to us, our compliance and enforcement
4 section. I believe we currently feel they are adequately
5 staffed to perform this function. And of course, the
6 public can submit a Freedom of Information Act request to
7 obtain copies of these reports.

8 MS. OWEN: And I think my last comment will be
9 that if you want the public truly involved in the permit
10 you have to write the permits so we can understand them,
11 and I have brought this up in the past. These permits are
12 so structurally complicated for no reason whatsoever that
13 they are almost unreadable. I don't understand why
14 conditions do not come with a statement of basis, the
15 monitoring, recordkeeping, and reporting requirements
16 under the condition. You have to read the entire permit
17 to find some monitoring for one thing, then you have to go
18 to the recordkeeping section, and then the reporting
19 section. It makes it almost unworkable for us to
20 understand what the source has to do to be in compliance.

21 Thank you.

22 (A round of applause.)

23 HEARING OFFICER MATOESIAN: Thank you, Ms. Owen.

24 The next speaker I have is Laurel

1 O'Sullivan.

2 MS. O'SULLIVAN: Good evening. I'm here tonight
3 on behalf of the Lake Michigan Federation and the Delta
4 Institute. My name is Laurel O'Sullivan, and I'm staff
5 counsel for the Lake Michigan Federation. The Federation
6 works with community groups around the lake to reduce
7 toxic emissions, and tonight we are here to ask the IEPA
8 to address our serious concerns about the mercury
9 emissions from this facility.

10 Lake Michigan and the Great Lakes are a
11 high priority ecosystem, and they deserve a high priority
12 response. Just over a year ago two events occurred in the
13 State that bear upon tonight's proceedings and are worth
14 mentioning. First, the EPA formed the mercury Task Force
15 to pledge to better determine the sources of mercury and
16 work on ways to reduce those. These Title V permits
17 expired eight years ago, and we are here tonight to ask
18 the IEPA to use the issuance of these Title V permits to
19 honor its commitment to reducing mercury emissions.

20 The second event that bears mentioning is
21 that for the first time in Illinois the Department of
22 Natural Resources issued a fish consumption advisory for
23 consumption of all Illinois lakes for mercury. At a time
24 when women and children are restricted from eating fish in

1 Lake Michigan and other lakes because of the high levels
2 of mercury, we would ask that Illinois acknowledge that
3 significant mercury emissions are attributable to
4 coal-fired power plants and begin to limit those emissions
5 now.

6 Although the permit acknowledges that the
7 facility is a major source for hazardous air pollutants,
8 there are no provisions limiting these emissions, which
9 leaves both human health and the environment unprotected.

10 According to the most recent TRI data, this
11 facility alone emits 200 pounds of mercury per year. When
12 combined with the emissions from Crawford and Waukegan,
13 these three facilities emit nearly 10 percent of the total
14 mercury emissions for the State of Illinois.
15 Considering that this facility is located in a densely
16 populated urban area, and it's permitted to keep operating
17 even in the case of equipment failure, the permit should
18 at least include an emission limit for mercury.

19 Lake Michigan is already seriously degraded
20 by mercury. The southern Great Lakes are one of the most
21 highly impacted areas from the mercury deposition in the
22 country. Each year over 3,000 pounds of mercury are
23 emitted to Lake Michigan. 86 percent of that comes from
24 airborne deposition, and 30 percent of that comes from

1 local sources in the Chicago area.

2 We need to reverse this trend. Recent
3 studies demonstrate that reducing mercury emissions can
4 have an impact, can make a difference. Frequently those
5 opposed to federal and state regulation for limiting
6 mercury argue that reducing emissions from coal-fired
7 power plants won't have any impact on the levels of
8 mercury in fish. Currently, however, coal-fired power
9 plants are the largest unregulated source of mercury. And
10 recent scientific studies show that mercury levels in the
11 Midwest have decreased significantly as a result of
12 control measures.

13 I would like to close my remarks by urging
14 the IEPA to act upon the authority it has under the
15 Illinois Environmental Protection Act, specifically under
16 Section 39.5, subsection 19. This allows the IEPA to
17 develop mercury standards even in the absence of the
18 federal legislative solution, which as we all now are at a
19 minimum of several years off.

20 And state action in the Midwest to regulate
21 mercury is not without precedent. The state of Wisconsin
22 recently passed mercury emission reduction rules that will
23 cap mercury emissions from major utilities and requires an
24 80 percent reduction by the year 2015.

1 And now if I may, I would like to address a
2 question regarding the electrostatic precipitator.
3 Can someone please tell me whether that's a cold side or a
4 hot side ESP?

5 MR. ROMAIN: It's a cold side.

6 MS. O'SULLIVAN: The reason I ask is that cold
7 side ESPs remove approximately 31 percent of mercury, and
8 hot side only remove 12 percent on an average, so it could
9 make a significant difference in terms of mercury.

10 MR. ROMAIN: Actually, I'm going to let Midwest
11 Generation answer that. I'm going to let Midwest
12 Generation answer that.

13 Scott, do you want to volunteer to answer
14 that question?

15 MR. MILLER: Scott Miller, Midwest Generation.
16 It's a cold side electrostatic precipitator.

17 MS. O'SULLIVAN: Okay. Thank you.

18 My final request is whether IEPA has
19 considered any other alternative control technologies that
20 would also reduce mercury emissions from this facility
21 beyond what's listed in the draft permit.

22 MR. ROMAIN: We have not considered that as
23 part of this permitting exercise. As I mentioned in our
24 opening remarks, the Illinois EPA is engaged in an

1 evaluation of additional controls of existing power plants
2 on a statewide basis. That isn't part of this permitting
3 exercise. It's a separate obligation under the
4 Environmental Protection Act.

5 MS. O'SULLIVAN: Okay.

6 (A round of applause.)

7 HEARIG OFFICER MATOESIAN: Thank you,
8 Ms. O'Sullivan.

9 The next speaker is Robert Briscoe.

10 MR. BRISCOE: I'm Robert Briscoe of the Illinois
11 Green Party and also Green Alliance, the anticapitalist
12 wing of the green party.

13 My concern as a member of the Green Party,
14 Green Alliance is that this Title V permit would give a
15 stamp of approval to, as cited from the study from the
16 Harvard School of Public Health 2001, over 43 premature
17 deaths each year, hundreds of emergency room visits each
18 year in this area, and nearly 3,000 asthma attacks each
19 year.

20 And my question is in an era where the big
21 corporations are going on about and their parties are
22 going on about taking personal responsibility for one's
23 actions and expressing this in the form of such things as
24 abolishing welfare, more close to home to me denying me

1 layoff pay for the summer, why are, you know, these
2 executives being allowed to run a corporation that is
3 basically killing 40 people a year? I mean why are we
4 even discussing allowing them a permit when, you know,
5 they should be, I think, in Cook County jail wearing
6 orange jumpsuits? You know, do we issue permits to
7 Jeffrey Dahmer, you know, to kill 40 people a year?

8 In terms of solutions, I think one might be
9 to move the plants, you know, out of such a dense and
10 populated area. I think it's also been mentioned in a
11 Reader article to use gas or less polluting coal,
12 obviously, better scrubber technology in the main plant,
13 look at alternative sources of energy. And finally, of
14 course, Alderman Burke's ordinance, which would cut
15 emissions by 90 percent.

16 Finally, in light of the greenhouse effect
17 that is going on we assert, where 90 percent of the
18 world's scientists I believe have about a 90 percent
19 surety that we are facing global climate catastrophe and
20 the World Watch Institute says we have about 30 years left
21 in this ongoing catastrophe before the earth is
22 uninhabitable, I hope that's overstatement, should we not
23 be looking at not just much more stringent requirements on
24 plants like this but also alternative sources of energy.

1 Thank you.

2 (A round of applause.)

3 MR. ROMAIN: You have made some general
4 comments, and I think it's an appropriate opportunity to
5 respond. Certainly our society faces very serious issues
6 with its power supply problem. But I think unless you are
7 prepared to go home and not turn on the lights when you
8 get home, it's a problem that we all share. And it is
9 something that we have to face as a whole and, as I said
10 in my opening remarks, something that's much more
11 effectively addressed at a national level with a
12 comprehensive approach rather than going after piecemeal
13 individual plants.

14 In the big picture again, the Fisk plant is
15 one of the smaller plants in the State. The Fisk plant
16 may not be in the correct community, but it is certainly
17 not a plant that has the largest impacts on the State of
18 Illinois. And as I said, it's hard to pick out one plant
19 that does have those impacts. The problem, as you have
20 mentioned, is not one coal-fired power plant, it's the
21 fact that we rely on a lot of coal-fired power plants.
22 It's the facts that we have a lot of energy consumption
23 that generates the greenhouse gases. We have cars. We
24 have electricity. And it's not something that people are

1 ready to address directly.

2 In terms of what is the obligation of
3 people like Midwest Generation, their obligation is to
4 comply with existing laws such as they are. And as those
5 laws aren't adequate, it's our obligation and our elective
6 representatives' obligation to change and approve those
7 laws to establish laws that do meet environmental
8 objectives that we want to achieve.

9 MR. ROSS: Just to follow up on that slightly --
10 And also, Verena, I think that we didn't give you an
11 adequate answer to one of your questions; and that is, is
12 this source in compliance. And I would just like to make
13 two points along that line. And that is that, number one,
14 they have certified compliance to us. And, number two,
15 based upon the information available to us, after thorough
16 review, we have made a determination that they are in
17 compliance.

18 MR. ROMAINE: However, that forces me to follow
19 up some more really some of the issues that Keith Harley
20 raised with regard to New Source Review. This is again an
21 area where there is not, at least until very recently,
22 necessarily a good understanding of what the applicable
23 law was or is. The USEPA is taking on some very key
24 litigation against some of the largest electrical

1 utilities in the nation to prove up the New Source Review
2 program and confirm that USEPA's interpretation of that
3 program is correct and that changes such as those that
4 Keith Harley described are made at this facility could, in
5 fact, be considered major modifications.

6 If this permit was issued, it would do
7 nothing to insulate Midwest Generation or the previous
8 owner of the plant, Commonwealth Edison, from its
9 obligations under New Source Review. As I said, also it
10 would not be putting an approval on the level of
11 emissions. All we would be saying is that based on our
12 best knowledge of current rules and laws in effect we
13 think it's appropriate to have this permit to assure that
14 Midwest Generation is complying with the existing laws and
15 rules that are there.

16 MR. ROMAIN: Thank you, Mr. Briscoe.

17 The next speaker is Juan Miguel Turnil.

18 MR. TURNIL: Good evening, my name is the Juan
19 Miguel Turnil. I'm a member of the Little Village
20 Environmental Justice Organization, also a member of the
21 Coalition of Advocates for Clean Air of Chicago.

22 I'm here tonight to express my support to
23 this group from Pilsen and Little Village for this public
24 hearing, and also I would like to extend an invitation to

1 the audience to join us tomorrow in the public hearing
2 which is going to take place at the Little Village in
3 regards about the coal-powered plant Crawford in Little
4 Village. Thanks.

5 (A round of applause.)

6 HEARIG OFFICER MATOESIAN: Thank you,
7 Mr. Turnil.

8 The next speaker is Ryan Hagan.

9 MR. HAGEN: Hi. My name is Ryan Hagen. I'm
10 with the Illinois Public Interest Research Group, Illinois
11 PIRG. Emissions restrictions are advisable on coal-fired
12 power plants for the health of Illinois citizens. A
13 Harvard study released in 2002 concluded that pollution
14 from coal-fired power plants in the Chicago area, Fisk
15 included, lead to 300 premature deaths in Chicago each
16 year. Its pollution leads to hundreds of emergency room
17 visits each year, triggers thousands of asthma attacks
18 each year. The mercury emitted from these plants, one of
19 the major industrial sources of this pollution, this
20 mercury ends up in our waterways contaminating the fish we
21 eat.

22 A study by the Center of Disease Control
23 recently concluded that one in 12 American women of child-
24 bearing age have already bioaccumulated unsafe levels of

1 mercury leading to acutely increased risk of passing on
2 birth defects and neurological damage to their children.
3 These are good statistics to keep in mind when we consider
4 that more people live within a five-mile radius of the
5 Fisk plant than any other coal-fired power plant in
6 Illinois.

7 The CAAPP permit program is a good first
8 step, but it is not enough. The Fisk Generation Station
9 and the 22 coal-fired power plants across Illinois also
10 currently grandfathered through the Clean Air Act must be
11 held to modern pollution standards. The Illinois EPA must
12 for the health of Illinois citizens close the legal
13 loophole that the grandfather clause in the Clean Air Act
14 represents. Thank you.

15 (A round of applause.)

16 MR. ROMAIN: Thank you, Mr. Hagen.

17 The next speaker is Isaac Bloom.

18 MR. BLOOM: Good evening. My name is Isaac
19 Bloom. I'm here also representing Illinois Public
20 Interest Research Group or Illinois PIRG. Essentially the
21 CAAPP permit is a good idea as a first step, assuming that
22 the Fisk plant is capable of meeting the standards set
23 forth in that permit. However, it is only a first step.
24 It does not significantly reduce current levels of air

1 pollution such as smog, soot, and various sources of
2 particulate matter produced by power plants.

3 A recent study by the University of Chicago
4 shows that a reduction during 1981, 1982, basically a
5 drawdown of these levels of particulate matter, did lead
6 to the continued life of 25 million infants admitted
7 through their first year who otherwise due to problems
8 with their lungs would have died due to this sort of
9 particulate matter; and this was due to a slowdown in the
10 release of these kinds of particulate matter.

11 Essentially right now with the Clear Skies
12 initiative that is being proposed, that assumes that there
13 is little to no enforcement of the Clean Air Act.
14 Instead, here in Illinois, while the CAAPP permit should
15 be tendered, again assuming that the Fisk plant can meet
16 those standards. The report tendered by the IEPA that
17 concerns the law passed that will force a report in 2004
18 concerning these plants, coal-fired power plants in
19 Illinois, should take into account the severe public
20 health impacts of pollution caused by these plants and use
21 this info to actually close the legal loophole or actually
22 close the grandfather clause in the Clean Air Act that
23 allows that the plants to pollute at the 1950 levels and
24 instead force these plants to be held to the same

1 standards that modern plants are. This reduction would,
2 again, cause two thirds of the pollution that causes these
3 public health impacts to disappear and save lives. Thank
4 you very much.

5 (A round of applause.)

6 HEARING OFFICER MATOESIAN: Thank you,
7 Mr. Bloom.

8 The next speaker is Maria Garcia, and we
9 will need the assistance of a translator for this.

10 MS. ESPARZA: Good evening, my name is Nilda
11 Esparza. I work for the Illinois Environmental Protection
12 Agency, and I will be translating for Miss Maria Garcia.

13 As a representative of the community, I am
14 extremely concerned about the air quality in the area.
15 Children are getting sick. And she feels that whatever
16 laws and regulations that are out there are obviously not
17 working. She would like to see them enforced, and she
18 feels that if the environment is being damaged by these
19 power plants that it would be preferable that they be
20 removed.

21 And she also stated that the State of
22 Illinois is one of the states that has the highest numbers
23 in asthma. And she wants to reiterate the fact that the
24 power plant should be removed. She again is reiterating

1 that it would be preferable that the power plants be
2 removed out of the area that's causing people to get sick.

3 MR. ROMAIN: Gracias.

4 HEARING OFFICER MATOESIAN: Thank you,
5 Ms. Garcia.

6 (A round of applause.)

7 HEARIG OFFICER MATOESIAN: And the next speaker
8 is Justin Barone. Justine I guess.

9 MS. BARONE: Yes. Justine.

10 HEARIG OFFICER MATOESIAN: Thank you.

11 MS. BARONE: I'm here as a concerned citizen.
12 And I would like to enter a comment for discussion. A lot
13 of people here are expressing concern over both our
14 reliance on coal power and the health environment also
15 associated with the proximity of these dirty coal-fired
16 powered plants to the communities in Illinois. And I
17 don't think that citing our reliance on this coal power is
18 an adequate explanation for the concerns that have been
19 raised here tonight.

20 Obviously, we all have to concentrate our
21 efforts on available renewable energy sources and to
22 attempt to produce energy efficiently and conservation,
23 but this doesn't change the fact that we must also clean
24 up the existing dirty coal-fired power plants. There is

1 no reason that dirty plants like the Fisk plant should be
2 allowed to continue polluting two to five times the amount
3 of pollution. Our reliance on coal power does not excuse
4 our failure to hold plants like Fisk accountable for the
5 threats that they pose to public health. For information,
6 we don't want these plants in our back yard; and we also
7 don't want them in anybody else's back yard.

8 HEARING OFFICER MATOESIAN: Thank you,
9 Ms. Barone.

10 (A round of applause.)

11 MR. ROMAIN: The next speaker is Jackson
12 Potter.

13 MR. POTTER: Hi. My name is Jackson Potter.
14 I'm a resident of Pilsen. And I kind of just wanted to
15 tell you guys a personal story so you can humanize it a
16 little bit. I have never had any symptoms of asthma in my
17 life. I'm not a smoker. And yet, last year as a result
18 of living in proximity to the Fisk plant, I believe I had
19 an infection, respiratory infection, that lasted a month.
20 I went to the doctor, took an X ray, told me I had an
21 onset of emphysema. So I'm happy to submit those medical
22 records to you, but I have a hard time believing that
23 that's random. I think it has everything to do with my
24 proximity to the plant. I live on 18th and Morgan, which

1 is just blocks away.

2 Also, I find it at the very least
3 insensitive and perhaps a little trite your continuous
4 comments about car pollution being a bigger factor and
5 overall pollution when it's obvious, and we have been
6 trying to tell you this all night, that people are
7 suffering tremendous repercussions from this pollution in
8 the direct vicinity. And it's qualitatively different
9 than the type of pollution you are referring to as maybe
10 causing greater overall environmental impacts.

11 I also would also like you to answer a
12 question on -- Your language in your presentations were
13 consistently discussing that this permit was going to be
14 submitted. So my question to you is what is this
15 community hearing for? How can the community alter the
16 fact that you have already decided to submit this permit?

17 The gentleman here in the blue jacket, you
18 said that in your -- as far as you know, they are in
19 compliance with the different standards you have. But
20 what about the information we presented tonight?
21 Shouldn't that change the equation for how you determine
22 compliance? I mean this is new information.

23 (A round of applause.)

24 MR. ROSS: Just to clarify, this is still a

1 draft permit. Nothing has been finalized yet. So that's
2 what this hearing is for, to listen to your comments and
3 concerns. And you can effect a change in the permit. We
4 take all these back to our headquarters with this and will
5 review them and perhaps make revisions to the permit as
6 appropriate.

7 As far as the compliance issue, the company
8 again has certified in their application that they are in
9 compliance. And we have reviewed all the data available
10 to us in their applications, do inspection reports; and we
11 do feel that the permit can go forward from this stage.
12 And the air and the people in this surrounding area are
13 better off with this permit issued as opposed to us not
14 issuing a Title V permit. It contains additional
15 requirements, especially in the area of reporting, which
16 are considered compliance schools that provide an avid
17 layer of assurance of compliance and compliance checks and
18 balances. So it's our belief that this permit is
19 beneficial to the environment and the public in the area.

20 HEARING OFFICER MATOESIAN: Thank you,
21 Mr. Potter.

22 The next speaker is Carmen Velasquez.

23 MS. VELASQUEZ: My name is Carmen Velasquez.
24 I'm the director of a community health center, Alvio

1 Medical Center, on 21st and Morgan, a neighbor to Fisk.

2 As I sat here listening to the different
3 reports cited, my initial question is do you have copies
4 of the Harvard report?

5 MR. ROMAIN: Yes. We have that report.

6 MS. VELASQUEZ: And so you have read those
7 reports that the others mentioned here tonight?

8 MR. ROMAIN: I'm not sure we have all the
9 reports that have been mentioned tonight. We certainly
10 have copies of the major reports.

11 MS. VELASQUEZ: I service 16,000 patients at
12 Alvio Medical Center. And the patients that we see, again
13 to use the term that the young man used, to humanize
14 tonight's hearing, is that many, many of those adults and
15 children are affected with asthma. They lose time from
16 their work. They lose time from their school, and their
17 quality of life is not the best.

18 I have a theoretical question here. I,
19 like Ms. Garcia, no apoyo la presencia de Fisk aqui en
20 el barrio de Pilsen. I, like Mrs. Garcia, do not support
21 the presence of the Fisk plant in the Pilsen neighborhood.
22 There is a lot of talk about the great diversification
23 here in this community, and I ask myself when the white
24 collar worker comes here who is the affluent person will

1 they also allow time to remain -- will they also allow
2 Fisk to remain?

3 And I guess I don't want to give my back to
4 you because I really do want you to see my face and see
5 the faces of people. That means if this was happening to
6 your child, if your child missed school because he had
7 asthma, if you missed work because you couldn't go to work
8 because you had asthma, how would you feel about it? And
9 this is continuous.

10 Alvio Medical Center is at 21st and Morgan.
11 Not only do we have the Fisk plant but, believe it or not,
12 we have got the Grief plant. And for those of you who
13 live in the neighborhood, they moved. They moved about
14 six months ago. Between the Grief plant, who were lining
15 paint containers, and the Fisk plant, we didn't have a
16 chance.

17 So I'm not here to give you statistics. We
18 see the patients. We see the people come to Alvio Medical
19 Center who really have asthma, who don't have a quality of
20 life in their neighborhood. And you say the Title V
21 permit, you say this is going to make it better for us.
22 What are those guarantees? I don't -- With the
23 presentations made, I was very careful to take notes and
24 say, what are the guarantees to the kids who miss school?

1 And to the parents who can't deal with their families and
2 daily lives and cannot go to work because they have
3 asthma, their quality of life is not the same as yours.
4 And people who are the wheelers -- I take that back. The
5 people who operate the Fisk plant, we really believe that
6 put yourselves in the shoes of our community, we are not
7 here to cause you problems. We are here to say think of
8 us as a family who really want the same thing that your
9 families want. Thank you.

10 (A round of applause.)

11 HEARING OFFICER MATOESIAN: I thank you,
12 Ms. Velasquez.

13 And finally, I have Matthew Dunn.

14 MR. DUNN: Good evening. My name is Matthew
15 Dunn, Assistant Attorney General on behalf of Lisa
16 Madigan, Attorney General of the State of Illinois.

17 Could I start off with maybe a question,
18 could you explain briefly the ability of the compliance
19 plans in a Title V permit so that you can lock in all of
20 the reporting and the monitoring that are the benefits to
21 a permit while at the same time addressing some of the
22 concerns regarding compliance?

23 MR. ROSS: I think I get the gist of your
24 question. Compliance plans are generally put into permits

1 for a source that is out of compliance. A compliance
2 schedule so to say to bring, you know, to keep that source
3 on a path to come into compliance. It has some periodic
4 milestones, which the goal being -- the final milestone
5 would be they would be in compliance. This permit does
6 not contain such a compliance schedule.

7 MR. DUNN: The draft permit?

8 MR. ROSS: The draft permit does not, correct.

9 MR. DUNN: Understood. But it is possible,
10 though, that if concerns of the community were found valid
11 and appeared to be in the compliance schedule, it's not
12 that the permit doesn't issue, the permit can issue on all
13 those good monitoring things and the reporting, those are
14 there and those are immediately gained, but with also the
15 next step that we've heard about tonight from so many
16 people about the compliance issues.

17 MR. ROSS: Certainly if we found merit to some
18 compliance issues, we could, in fact, go back and revise
19 this draft permit such that the final version, if
20 appropriate, would contain a compliance schedule, a
21 compliance plan. That's certainly possible.

22 MR. DUNN: Maybe as a brief bit of background,
23 normally as Assistant Attorney General, I'm normally
24 representing IEPA. And I'm not adversarial to them this

1 evening but rather wanted to come on behalf of Attorney
2 General Madigan and hear from so many of you and the
3 colleagues in the not-for-profit sector regarding issues
4 that are apparent to them in the application.

5 Mr. Romaine and I have just recently
6 concluded a two-year endeavor with a company that the
7 results of which would be closing down ten plants the size
8 of Fisk and a company that's going to fix some
9 environmental air pollution problems and get the reduction
10 to it equal as though Fisk would close ten times. So I
11 have had a very close relationship with my friend and
12 colleague Mr. Romaine dealing with environmental air
13 pollution issues in Illinois.

14 The Illinois Constitution that created the
15 State of Illinois also tells all of us that we have a
16 right to a healthful environment, that it would provide
17 the maintenance of that by law, and the law in Illinois on
18 that is the Environmental Protection Act.

19 We start with the application and whether
20 or not the application was thorough enough for you all to
21 make the determinations involved that were reached to do
22 the draft permit. Did the applicant submit complete
23 application? Did the applicant provide enough information
24 that's required by the statute both to determine all

1 applicable requirements pursuant to the Clean Air Act and
2 the Illinois Environmental Protection Act?

3 The applicant shall also submit with its
4 application a compliance plan, both of those saying, hey,
5 we are in compliance and staying there; or for things that
6 they are, perhaps, not in compliance with, and we will get
7 to there by this course of action over whatever time
8 frame. The Illinois EPA must ensure that the applicant
9 has fully complied with that requirement. And I'm
10 confident that you all working with your staffs will do
11 that.

12 But the applicant must establish what
13 emission limits will apply to its site. Right now the
14 draft permit provides that this site is an existing source
15 for Illinois Pollution Control Board regulations. Having
16 been constructed or modified before April 14, 1972, these
17 regulations are the least stringent emission limitations
18 found in the Illinois Pollution Control Board regulations
19 for this type of facility. This determination requires
20 full disclosure by the applicant and the review by the
21 State of Illinois on whether the site has ever modified
22 for Pollution Control Board definitions since 1972. If
23 the site has been modified since 1972, it's a new source,
24 the permit must contain those tougher requirements.

1 Now, I understand, I believe, that the
2 facility meets those tougher requirements also. But the
3 permit should be accurate. The permit should say whether
4 it is or isn't and what those numbers are regardless of
5 how much are under even those new source pollution
6 regulations, the State of Illinois pollution regulations,
7 the facility has already maintained. I'm not suggesting
8 they would be violating those tougher Illinois standards.
9 But if those tougher standards apply, they should be in
10 the permit, not the more lenient ones.

11 A tougher question, one we have heard about
12 from numerous speakers tonight, is the whole federal
13 regulation New Source Review determination. That's more
14 important because it's the main record of testifying.
15 Many have these walls, such as these walls around us,
16 brick walls, of trying to figure out what all that inner
17 stuff is and how it applies to this permit. That
18 regulation, those regulations, are where you get some real
19 benefits to the environment of the State of Illinois and
20 to this community.

21 If I could ask, I know roughly the answer,
22 but could you outline for us about how many coal-fired
23 plants are in the process of being permitted this calendar
24 year by IEPA?

1 MR. ROSS: I believe there are 22 coal-fired
2 power plants which we are currently in the process of
3 drafting up the permits on.

4 MR. DUNN: And this is one of the smaller ones,
5 I think those that have looked at it statewide would
6 agree. But I go to my friend and colleague Chris
7 Romaine's comments of we need national or regional or at
8 least broader than site to site. And I think everybody
9 here would agree, even the company here tonight, this
10 applicant, because it wants its competitors and those
11 other operators in Illinois to make sure that they are
12 doing what they are required by regulation and law, too.

13 But when you get 22 sites, now we may well
14 be talking about the benefits, Chris, that you talked
15 about in your opening remarks, and we need to do this
16 more, more broadly and more regionally. And 22 sites
17 would have a real significant impact, I'm sure, across
18 Illinois, across our country.

19 Back to the New Source Review. It's
20 equally important for the applicant to fully disclose all
21 modifications to this facility since August 17, 1971, to
22 allow IEPA to make a NSR determination. A determination
23 that New Source Review has been triggered by site
24 modifications would require the source to meet New Source

1 Performance Standards and apply Best Available Control
2 Technology to the plant, which are now much more stringent
3 than emission limits proposed without a permit.

4 These are the emission limits most
5 protective of the environment and human health. At this
6 juncture it is a requirement of the company to demonstrate
7 to IEPA in the application by the statute what emission
8 limits it is entitled to. No one else has that burden,
9 only the company.

10 Lastly, 35 Illinois Administrative Code
11 201.141, Prohibition of Air Pollution. If I could quote
12 that section, "No person shall cause or threaten or allow
13 the discharge or emission of any contaminant into the
14 environment in any state so as, either alone or in
15 combination with contaminants from other sources, to cause
16 or tend to cause air pollution in Illinois ..."

17 To quote, the section continues -- I end
18 my quote of that section there. There can be no doubt
19 that this site does "in combination with contaminants from
20 other sources," "cause or tend to cause air pollution in
21 Illinois." The IEPA should review the effects of these
22 emissions on the environment and public health, in light
23 of the numerous health studies and personal accounts being
24 presented tonight regarding the human toll that air

1 pollution causes in the City of Chicago.

2 This site is a significant contributor of
3 contaminants in the third largest metropolitan area in the
4 United States. It must be fully reviewed and properly
5 controlled to protect the public health and the
6 environment.

7 I'm confident that you gentlemen and your
8 staff will do that, that you are here. I'm pleased to be
9 here tonight. I have a lot shorter drive than you all did
10 tonight, tomorrow night for your next one, and as you
11 travel the state to hear similarly, and we appropriately
12 applaud you for your efforts in getting out and hearing
13 from all of us. And I wanted to let those much closer to
14 the facility know, although I'm within that -- certainly
15 within that 40-mile radius that was talked about by one of
16 the commentators, that I appreciate your all's
17 consideration for all the comments. Thank you very much.

18 (A round of applause.)

19 MR. ROSS: Just as a point of clarification for
20 the record, there are, in fact, as Matt mentioned, two
21 kinds of compliance plans, a compliance plan for those
22 units in compliance and how they will continue to
23 demonstrate compliance; and there is compliance plan for
24 those emissions which are out of compliance. And that's

1 what I was referring to and focused on for sources that
2 would be subject to a schedule or a set of milestones that
3 come in compliance.

4 And also just something I picked up on, as
5 people have been giving us their comments, I just want to
6 clarify that this is the draft stage of the permit. It's
7 like our first attempt at putting this permit out there
8 for everyone to see. After the draft stage comes the
9 proposed permit stage. And that version of the permit
10 will go to USEPA for 45-day review period. And then
11 finally, the last stage of the permit is the issuance of
12 the permit after we have incorporated all the appropriate
13 comments we have received here and the comments we receive
14 from the USEPA. So we are still at the initial stage of
15 this permit-issuing process as far as letting a version of
16 the permit out for comments.

17 HEARING OFFICER MATOESIAN: Thank you, Mr. Dunn.

18 And we have one more speaker. Mr. Dorian
19 Breuer.

20 MR. BREUER: Thank you very much. My name
21 Dorian Breuer. I'm also from the local Pilsen southwest
22 side Green Party. You probably heard enough from the
23 Green Party tonight but a couple more comments. I'm also
24 a local resident. I live on 19th Street and Troop. I

1 have been here for three years, and you can see the plant
2 from my window. So this is a daily neighbor of mine. So
3 this has motivated a lot of my work in the neighborhood,
4 which I will describe a little bit in relation to this
5 plant.

6 But the main thrust of why I got up here
7 and wanted to make a comment to you was partly based on
8 some of the information that I have also learned tonight
9 and some of the comments. And so my main thrust was I
10 wanted to make sure to reiterate the fact that this
11 particular plant has the highest density population around
12 it in the state. So for me that's a very important issue.
13 Even if your on the issue of environmental racism based on
14 why this plant is allowed to be in a minority community,
15 but just on the density issue, this is true for the Fisk
16 plant than any other plant in Illinois. That was a very
17 great fact by the representative from Illinois Prairie. I
18 have to thank him for that.

19 The other fact that I gained was from
20 Laurel O'Sullivan, the Lake Michigan Federation and the
21 IEPA's discretion when it comes to regulating mercury
22 emissions. And I think that's another key fact when you
23 couple it with the density of the population of this
24 plant. So that leeway, however pleasing to the emission

1 standards that the permit can set, I think that's an issue
2 to look at when looking at the submitted permit and
3 possibly making adjustments, whether it's specifically
4 mercury, if there is other leeway in order to clean up the
5 plant because of the density issue.

6 And finally, the third element to stress is
7 the evidence in regards to that Harvard study where it
8 discusses the proximity to the plant coupled with that
9 density population is another factor that the IEPA is
10 looking for justification for its own discretion that it
11 can use. That seems to me like very good areas to use to
12 back up the IEPA's work.

13 I want to say also thank you very much for
14 holding the public hearings. It's very good to be able to
15 stand next to some of the folks in the EPA, which I love
16 that Agency.

17 The second part of my comments was I wanted
18 to ask what efforts did the EPA, IEPA, make in announcing
19 this or these hearings, because I will see you again
20 tomorrow night, and in what language? I will wait.

21 I hate to make everyone wait. Maybe I
22 should go on.

23 HEARING OFFICER MATOESIAN: Was your question
24 where is the hearing tomorrow?

1 MR. BREUER: No, no.

2 HEARIG OFFICER MATOESIAN: I'm sorry.

3 MR. BREUER: That wasn't my question at all. My
4 question was simply what efforts were made by the IEPA in
5 informing the public about these hearings. That was my
6 question.

7 (Discussion outside the record.)

8 HEARING OFFICER MATOESIAN: She was just
9 mentioning it was on the web site. And I do note that
10 tomorrow's hearing, it was placed in the Lawndale News on
11 June 29, July 3, and July 12, and Exito on July 3.
12 Tonight's hearing was also placed in the Lawndale News on
13 June 26, July 3, and July 10, and Exito on July 3.

14 MR. ROMAINE: And then I believe that we have
15 worked with the local neighborhood associations setting up
16 this hearing. Unfortunately, Mark is filling in for Brad
17 Frost who actually handled the details of setting up the
18 hearing.

19 Is there anything more you want to add,
20 Mark?

21 MR. GERBERDING: I didn't hear what you said.

22 MR. ROMAINE: We published the notice in this
23 newspaper in both English and Spanish newspapers. We
24 worked with local community group. We, of course, sent

1 out copies of the public notice to a listing of interested
2 people we have.

3 MR. GERBERDING: And newspapers in the area.

4 And that's what I was looking for was the list of
5 newspapers in the area that was published.

6 MR. BREUER: Thank you. I note that the EPA is
7 chronically underfunded, and ideally I would like public
8 service announcements on radio and TV. From the work we
9 did, we know there is a lot more interest in the
10 communities than you are seeing here tonight.

11 That goes to my next point. You heard a
12 little bit about some work in the Chicago area about a
13 proposed ordinance in the Chicago City Council. I want to
14 explain a little bit about it. It would regulate for
15 emissions of sulfur dioxide, nitrogen oxide, carbon, and
16 mercury; and it would roughly reduce those emissions by
17 90 percent. And this ordinance would be using the I think
18 it's called the Home Rule ability under Illinois law to
19 regulate local sources, in this case sources of emissions,
20 because of the effects on the municipality's residents.

21 In February of this year, a group of us
22 here in this precinct where we are sitting were able to
23 get a question on the ballot. This was -- What I'm going
24 to tell you is evidence of the sentiment in the community.

1 We got an advisory referendum on the ballot in February.
2 We gave 800 registered voters a chance to answer the
3 question, Would you like the City Council of the City of
4 Chicago to pass a Chicago Clean Power ordinance that
5 regulated the -- for emissions I just described, and it
6 said, so that it would reduce the toxic emissions from
7 Chicago's two coal-fired power plants by 90 percent by
8 2006. In this precinct the referendum passed by 89.6
9 percent of the voters in this area.

10 And my last point had to do with some
11 comments earlier about the relationship between how people
12 feel and what politicians or what policy has been passed.
13 And I wanted to give a quick anecdote about our area. And
14 I just explained to you the sentiment of the residents
15 here as exemplified by that February referendum. In
16 regards to the local political situation and how that
17 relates to how policy is passed, and it disconnects often,
18 our local alderman in Chicago is Daniel Solis. And for
19 almost a year we could not get any help from our local
20 alderman despite repeated attempts to communicate with him
21 and despite petitions. And we found out that Alderman
22 Solis in the last election cycle received a \$5,000
23 donation from Midwest Generation. It was one of the
24 highest donations that he received in that election cycle.

1 So all of a sudden, -- However, in
2 March of this year, our campaign to clean up the plant and
3 specifically regarding the Chicago ordinance was covered
4 in the first page article in the Chicago Reader, March 28
5 issue I think, that covered this campaign; and it covered
6 those facts about the donation from the company to the
7 local alderman here, Daniel Solis. And about three weeks
8 later we were granted a meeting with Daniel Solis, we
9 being the representatives from the local Green Party here,
10 the American Lung Association, the Natural Resources
11 Defense Council had a representative in town so he came
12 along to the meeting. Daniel Solis within three weeks of
13 that meeting is now cosponsor of the bill. There is only
14 two sponsors of that Chicago ordinance. And there is also
15 permutations now about where that bill is headed --

16 But the reason for my telling you that
17 story is in combination with the situation with the
18 particular plant and its density and the possible
19 discretion you have in setting the emission limits in
20 relationship also to the way the people feel, so that's an
21 indication about that. And also the problems where you
22 get from how people feel through our political system to
23 how policy is set. So I just wanted to kind of weave a
24 little tale there to try and help you to understand, at

1 least from the perspective how I see it, and its
2 relationship to this big behemoth neighbor that pollutes.
3 Thank you very much.

4 (A round of applause.)

5 HEARING OFFICER MATOESIAN: Thank you,
6 Mr. Breuer.

7 And now I believe the company would like to
8 make a statement. And after that we will take any
9 additional questions the public may have.

10 MR. MC CLUSKEY: Good evening. My name is Fred
11 McCluskey, Vice President of Technical Services for
12 Midwest Generation. I would first like to thank the
13 Illinois EPA, the panel, for conducting this hearing this
14 evening. I think the very nature of this process, the
15 fact that it's public, that fact that so many concerned
16 people in the community can speak out, is evidence of the
17 great society that we live in.

18 There are about 900 different regulatory
19 requirements in a typical Midwest Generation Title V
20 permit. The public has legitimate concerns about air
21 pollution. And the Title V process should assure them
22 that regulations -- regulators and citizens are able to
23 closely monitor operations. We operate our plants in
24 compliance with every federal and state regulatory

1 requirement. Those regulations have gotten tougher over
2 the last 30 years. They got tougher this year. They get
3 even tougher next year.

4 And the federal EPA is working towards
5 adopting the first ever regulations on mercury emissions
6 with power from power plants within the next few years.
7 Midwest Generation fully supports the USEPA and these
8 efforts. We fully support Illinois EPA in these efforts.
9 We support President Bush's recommendations and the
10 policies as proposed under Clear Skies.

11 As Jim Ross so succinctly pointed out,
12 these permits add to, not subtract from, compliance checks
13 and balances put on the source thereby providing an
14 additional layer of protection for our air quality. One
15 thing is true, in the three years that we have owned these
16 facilities, they are cleaner, and they are safer. Our air
17 emissions that can contribute to smog have been reduced by
18 well over 50 percent. In fact, our Chicago plants already
19 comply with new regulations that will take effect next
20 year, regulations designed to further reduce ozone and
21 protect public health.

22 All of the employees at Midwest Generation
23 are proud of the contribution that we make, continue to
24 make, to cleaner air in and around Chicago. Midwest

1 Generation's improvements and the regulation of our plants
2 help meet cleaner goals while making sure we have a
3 reliable and affordable source of electricity.

4 I would like to make it clear that we
5 respect everyone's concerns about asthma and other
6 respiratory illnesses. It's a serious issue that deserves
7 serious attention. We at Midwest Generation understand
8 the power plants have an impact on the environment. Our
9 record demonstrates that we are committed to environmental
10 responsibility.

11 In looking at asthma and looking at the
12 period of increase in asthma in the United States as well
13 as locally, there's a very interesting statistical fact.
14 During the very period that asthma has been on the rise,
15 pollution not just from our plants but from coal plants in
16 general, locally and throughout the United States, has
17 fallen dramatically postimplementation of the Clean Air
18 Act. There are simply many factors that contribute to
19 asthma including indoor air pollution from sources such as
20 pollen, dust, animal dander, tobacco smoke. Even stress
21 is thought to be a factor.

22 There is currently a major study going on
23 in Chicago and many other cities right now that's focusing
24 on these concerns as separate and distinct potential

1 causes of asthma. It is also well-known that vehicle
2 emissions especially from diesel trucks and buses are the
3 biggest single source of air pollution in and around the
4 city. In Cook County based on published USEPA data for
5 the period ending 1999, our plants, Fisk and Crawford,
6 account for only 2 percent of the nitrogen oxide emissions
7 that can contribute to smog. Vehicles account for
8 63 percent. Even emissions from residential heating
9 account for 22 percent, while the remaining 13 percent
10 comes mainly from manufacturing facilities and airports.

11 We are committed to improving air quality.
12 Our track record over the past three years proves that we
13 have invested significant amounts of money at these
14 facilities for Fisk and Crawford as well as the balance of
15 our facilities in Illinois in doing so. Every source of
16 pollution must cut back. We have done it. We will
17 continue to do it. And the Title V permits and the
18 process facilitated by those permits gives the EPA and the
19 citizens more tools to use to monitor operations and
20 protect the public. We welcome that and appreciate the
21 opportunity to speak with you tonight.

22 HEARING OFFICER MATOESIAN: Thank you,
23 Mr. McCluskey.

24 And now if there are any other questions by

1 the public, please just approach the microphone and state
2 and spell your name again.

3 MR. MEAD: Hi, again. My name is Gerald Mead.
4 After listening to you, our presenters at the hearing,
5 this evening's hearing, there is a few things I just
6 thought I wanted to make clear as to what we are asking
7 from you before you leave tonight. One, I want to point
8 out again a number to point out recently is that Fisk, and
9 I think Crawford as well, fall into a specific situation
10 where they, unlike their other coal-fired power plants in
11 Illinois, because of the density of the population in
12 which they reside; and I think they are starting to prove
13 very clearly that they do lead directly to ill-effects in
14 this community.

15 Somebody brought up the issue of
16 environmental racism. I want to second that comment
17 because he had brought it up. I do wonder if these plants
18 would be allowed to operate if they were in a community on
19 the north side of Chicago. However, I want to make it
20 clear that our goal as we share in these proceedings is
21 never to close the plant. We think these plants can
22 operate much, much cleaner if they make changes to their
23 facilities and possibly move over to more of burning with
24 natural gas that they are set up to already. We don't

1 want to see them closed. We do want to see them meet
2 standards that help protect the health of our community.

3 I realize that, as he pointed out, the
4 advantages of Title V. Again, we are not so much
5 attacking the Title V process or permit; but we are
6 attacking the fact that, as you said before, the Title V
7 just basically reinforces the existing standards. And our
8 concern is the existing standards are not strong enough.
9 And whatever you can do to strengthen what's in that
10 Title V permit is what we would like to see. There has
11 been a number of cases brought up tonight of examples of
12 how that can be -- that permit can be made stronger.

13 There are examples of the fact that it's in
14 the current permit during shutdowns or accidents or so on,
15 they are allowed to go beyond the pollution limits as they
16 exist now. That's, obviously, a serious problem. There
17 has been discussion about the fact of the discretion about
18 being able to possibly strengthen other aspects of the
19 permit process. We would definitely like that to happen.
20 We would like to see whatever can be demonstrated in those
21 permits needs to happen.

22 Also I want to make sure that you do
23 understand that the Illinois EPA does need to look into
24 these violations of NSRs, those need to be followed up.

1 If those are true, and I think it's likely they are true,
2 then they are not in compliance; and they are in
3 violations of the law, and that needs to be followed up
4 now.

5 Lastly, I wanted to point out a fallacy in
6 the previous speaker's statement; and then I have a
7 question just directed to the Agency. The previous
8 speaker said that the Fisk plant accounts for only
9 2 percent of the -- I think it was the sulfur dioxide
10 pollution that you mentioned. Is that the one you, or was
11 it nitrogen?

12 MR. MC CLUSKEY: Nitrogen oxide.

13 MR. MEAD: Nitrogen oxide. I'm assuming what
14 you were doing with that number is you are comparing Fisk
15 to all of the cars in the state. Where if you look at the
16 statewide numbers and you look at coal-fired power plants
17 compared to cars, they actually come out to be pretty even
18 in the amount of air pollution, what they produce. That's
19 an amazing fact.

20 If you would look at the statistics, you
21 would think cars would beat it. But it's amazing how
22 coal-fired power plants are right up there as a major
23 polluter in our state. So that's an inaccurate statement.
24 You've got Fisk in the equation and all the cars in the

1 equation, which is a mismatch.

2 Also, I wanted to make one other comment
3 which is --

4 MR. MC CLUSKEY: As a point of clarification,
5 the data represented reflects data specific only to Cook
6 County for the period of 1999 from the USEPA.

7 MR. MEAD: Okay. All I know is I have looked at
8 statistics for the State, and the statistics for the State
9 show that coal-fired power plants are right up there with
10 cars in being a major source of pollution. And that's not
11 that kind of wide gap that you were describing. If you
12 want to look into that, it's available on Illinois PIRG's
13 web site, on the LA web site, they have statistics
14 available that there.

15 Also, I also want to say to Midwest
16 Generation is if you would like to be a good citizen and a
17 good neighbor, then stop trying to prevent the City's
18 proposed power ordinance, which is the best way to move
19 forward on making you a better neighbor and a better
20 citizen of the City of Chicago. Thank you.

21 (A round of applause.)

22 MS. OWEN: Owen again, I do have some additional
23 questions. Is the Fisk plant part of Midwest Generation's
24 NOx averaging program?

1 FEMALE VOICE: Can you repeat it, say it again?

2 MS. OWEN: I asked the question if this
3 particular plant was part of Midwest Generation's NOx
4 averaging program.

5 MR. ROMAIN: I assume you are referring to the
6 NOx averaging as allowed under the federal Acid Rain
7 Program. At this point Midwest Generation is no longer
8 engaged in NOx averaging under the federal Acid Rain
9 Program.

10 MS. OWEN: Okay. Thank you. About the garbage
11 burning, which really the answers weren't very clear to
12 me. If this plant were to burn garbage, wouldn't there be
13 additional testing required? What about storage of
14 garbage on site and things like that?

15 MR. ROMAIN: I think I would say more
16 generally, we are going to examine that provision very
17 closely. I would be surprised if it stays in any permit
18 that might be issued.

19 MS. OWEN: I'm certainly glad to hear that.

20 The peakers they have, are these oil-fired
21 peakers?

22 MR. CASHMAN: Yes, they are.

23 MS. OWEN: Do you have any indication how long
24 they ran for like the last year, last three years?

1 MR. CASHMAN: We could check for you. I don't
2 have any of that with me.

3 MS. OWEN: Okay. And just the question, I guess
4 to the community, the Waukegan plant is similarly set up
5 in a very populated area. And there are a lot of noise
6 complaints especially when the peakers are running. If
7 there is any noise complaints, now might be the time to
8 raise this issue.

9 And the last question, did IEPA ever look
10 at safety records of power plants?

11 MR. ROMAIN: Well, I guess are you asking in
12 terms of employee safety, accidents?

13 MS. OWEN: Fires, explosions, mishaps, things
14 like that.

15 MR. ROMAIN: No.

16 MS. OWEN: You do not. Who does?

17 MR. ROMAIN: That's addressed by OSHA.

18 MS. OWEN: Thank you.

19 MR. ROMAIN: In terms of the peaker plants,
20 again I will look to Scott. When was the last time the
21 oil peakers operated?

22 MR. MILLER: Scott Miller, Midwest Generation.
23 Waukegan peakers have not run in 2002 or 2003.

24 MR. ROMAIN: And the Fisk?

1 MR. MILLER: The Fisk peakers, I would say they
2 ran 100 hours or less last year. They have only run a few
3 hours this year.

4 MS. OWEN: All right. I'm certainly not going
5 to argue. However, it is my understanding that oil-fired
6 peakers have to run occasionally for maintenance purposes.
7 Are you saying you didn't even do that in 2002 and 2003?

8 MR. MILLER: Peakers usually go through a
9 capability test and usually lasts -- Four-hour procedure.
10 But I don't think Waukegan ran last year at all or this
11 year, so they didn't do their maintenance tests.

12 MS. OWEN: Thanks. And that is all the
13 questions I have.

14 HEARING OFFICER MATOESIAN: Do we have any
15 further questions?

16 (No response.)

17 HEARING OFFICER MATOESIAN: All right then.
18 Well, thank you all for coming. And again, I understand
19 there are some pretty strong opinions on this; and we will
20 take all of your comments into consideration. Thank you
21 and good night.

22 * * *

23 (Which were all the proceedings had in
24 the above-entitled cause.)

1 STATE OF ILLINOIS)
)
2 COUNTY OF DU PAGE)

3

4 I, JANICE H. HEINEMANN, CSR, RDR, CRR, do
5 hereby certify that I am a court reporter doing business
6 in the State of Illinois, that I reported in shorthand the
7 testimony given at the hearing of said cause, and that the
8 foregoing is a true and correct transcript of my shorthand
9 notes so taken as aforesaid.

10

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12 _____
13 Janice H. Heinemann CSR, RDR, CRR
 License No 084-001391

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